

From: [Burman, Lawrence O. \(EOIR\)](#)
To: [LERS, EOIR \(EOIR\)](#); [All of Judges \(EOIR\)](#)
Subject: RE: Matter of Castro-Tum Reminder
Date: Tuesday, May 29, 2018 12:44:44 PM

When I was in law school, there was a distinction between the *holding* of a decision, which is precedent, and *dicta* which may be instructive but is not binding precedent.

I doubt that the holding of any case was found in a footnote.

From: LERS, EOIR (EOIR)
Sent: Friday, May 25, 2018 10:21 AM
To: All of Judges (EOIR) <All_of_Judges@EOIR.USDOJ.GOV>
Subject: Matter of Castro-Tum Reminder

Good morning judges,

Questions have been raised about the scope of the Attorney General's recent decision in *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018), as it relates to administrative closure generally and cases in which the respondent is or will be seeking a provisional unlawful presence waiver via Form I-601A.

With respect to when administrative closure is permissible, we refer you to the Attorney General's holding that "there is no general authority" for immigration judges to administratively close cases. Judges may do so only when "Department of Justice regulations . . . permit administrative closure in specific categories of cases." *Castro-Tum*, 27 I&N Dec. at 274. A summary of those categories of cases appears in Section I(B) of *Castro-Tum*, 27 I&N Dec. at 276-78.

With respect to applications for I-601A waivers, judges should consult footnote 9 of *Castro-Tum*, 27 I&N Dec. at 287, which directly addresses this point and holds that the DHS regulation regarding the processing of that application "cannot be an independent source of authority for administrative closure."

If you have additional questions, please contact your Assistant Chief Immigration Judge.

Thank you.